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IN THE CLAIMS

Please cancel without prejudice claims 31 and 45-46 and amend claims 17, 21, 30, 40, 42-44, 47-48, and 65 as indicated in the following list of pending claims:

PENDING CLAIMS

1-16. (Canceled)

17. (Currently Amended) A biopsy instrument comprising an elongated shaft, a longitudinal axis, a distal end on the shaft, a tissue cutting surface on the distal end to facilitate advancement of the instrument through tissue to a target biopsy site, an elongated electro surgical cutting element longitudinally disposed on a distal portion of the shaft proximal to the tissue cutting surface on the distal end which is configured to receive RF energy from a source thereof for severing a tissue specimen from [[a]] the target site within a patient's body by rotating about the longitudinal axis to create a peripheral boundary about the tissue specimen and at least one encapsulating element which is secured to the distal portion of the shaft and which is configured to encapsulate the severed tissue specimen, so that the severed tissue specimen may be withdrawn from the patient's body in its entirety.

18. (Previously presented) The biopsy instrument as recited in Claim 17, wherein the encapsulating element comprises a band which is disposed along the shaft and which is actuatable between a radially retracted position and a radially extended position.

19. (Original) The biopsy instrument as recited in Claim 17, wherein said encapsulating element comprises a plurality of bands disposed along said shaft, each of said bands being actuatable between a radially retracted position and a radially extended position.

20. (Previously presented) The biopsy instrument as recited in Claim 19, wherein said electrosurgical cutting element comprises one of said encapsulating elements.

21. (Currently Amended) An instrument for retrieving a tissue specimen from a target site in a patient's body, comprising:

an elongated shaft having a longitudinal axis and a distal end and a tissue cutting member on the distal end configured [[for]] to penetrate through tissue to facilitate entry into a patient's body and advancement therein to the target site;

an electrosurgical tissue cutting element longitudinally disposed on a distal portion of the elongated shaft proximal to the tissue cutting member on the distal end configured to receive RF energy from a source thereof in order to sever a tissue specimen from the target site by rotating about the longitudinal axis and create a peripheral boundary about the tissue specimen; and

at least one encapsulating element which is secured on a distal portion of the elongated shaft and which is configured to encapsulate the severed tissue specimen so that the tissue specimen may be withdrawn from the patient's body in its entirety.

22. (Original) The instrument as recited in Claim 21, wherein said encapsulating element comprises an axially disposed band, said band being actuatable between a radially retracted position and a radially extended position.
23. (Previously presented) The biopsy instrument as recited in Claim 21, wherein said encapsulating element comprises a plurality of bands disposed along the longitudinal axis, each of the bands being actuatable between a radially retracted position and a radially extended position.
24. (Previously presented) The biopsy instrument as recited in Claim 23, wherein said instrument is rotatable about the longitudinal axis in order that said bands may be twisted for encapsulating said tissue specimen.
25. (Previously presented) The biopsy instrument as recited in Claim 21, wherein the electro surgical cutting element is axially aligned, is actuatable between a radially retracted position and a radially extended position, and is rotatable about the axis in said radially extended position to isolate the desired tissue specimen from surrounding tissue at the target site by defining a peripheral margin about the tissue specimen.
26. (Cancelled)
27. (Original) The biopsy instrument as recited in Claim 21, and further comprising a sheath which is axially movable between distal and proximal positions for selectively covering and uncovering the encapsulating element.

28. (Original) The biopsy instrument as recited in Claim 21, and further comprising a cutting element which is actuatable to cut tissue as said instrument is proximally withdrawn from said patient's body with said encapsulated intact tissue specimen.

29. (Cancelled)

30. (Currently Amended) A method for obtaining a tissue specimen from a target site within a patient's body, comprising:

~~inserting into the patient's body~~ providing an instrument having an elongated shaft, a distal end, a longitudinal axis, at least one encapsulating element disposed ~~at the~~ on a distal ~~[[end]]~~ distal shaft portion and an axially disposed electrosurgical cutting element on ~~[[a]]~~ the distal shaft portion thereof,

inserting the instrument into the patient's body and advancing the instrument therein until ~~so that~~ the distal ~~[[end]]~~ shaft portion is disposed in the target site from which the tissue specimen is to be taken;

radially extending the electrosurgical cutting element on the distal shaft portion;

rotating the radially extended electrosurgical cutting element about the longitudinal axis while the electrosurgical cutting element is energized with RF energy to cut ~~[[the]]~~ tissue specimen ~~and to~~ create a peripheral boundary about the tissue specimen, to isolate the tissue specimen from surrounding tissue in the target site;

radially extending at least one encapsulating element and rotating the at least one encapsulating element about the isolated tissue specimen with the encapsulating element to encapsulate the isolated tissue specimen; and withdrawing the encapsulated tissue specimen from the patient's body in its entirety.

31. (Canceled)

32. (Original) The method as recited in Claim 31, wherein said at least one encapsulating element comprises a plurality of bands which are disposed axially along said instrument:

33. (Previously presented) The method as recited in Claim 30, and further comprising proximally withdrawing said instrument, with the encapsulated tissue specimen, from the patient's body, and including cutting tissue as the instrument is withdrawn.

34-39. (Canceled)

40. (Currently Amended) An elongated device for retrieving a tissue specimen separated from a target site, comprising:

- a. an elongated shaft having a longitudinal axis[.], and proximal and distal ends;
- b. a thin electrosurgical tissue cutting electrode secured to the distal end of the elongated shaft having a blunt arcuate activatable tissue engaging cutting portion spaced distally from the distal end of the shaft and

configured to be electrically connected to a high frequency electrical power source; and

- c. at least one element which is secured on a distal portion of the elongated shaft and which is configured to encapsulate the separated tissue specimen so that the tissue specimen may be withdrawn from the patient's body in its entirety.

41. (Previously presented) The elongated accessing device of claim 40 wherein the thin electrode secured to the distal end of the elongated shaft is formed of conductive metallic material.

42. (Currently Amended) The elongated accessing device of claim 40 wherein a distal portion of the elongated shaft is provided with a tissue cutting member ~~at a location~~ spaced proximally from the distal end of the elongated shaft.

43. (Currently Amended) The elongated accessing device of claim 42 wherein the tissue cutting member spaced ~~proximal to~~ proximally from the distal end of the elongated shaft has a radially unexpanded configuration and a radially expanded configuration.

44. (Currently Amended) The elongated accessing device of claim 43 wherein the tissue cutting member is at least in part arcuate in shape when in a radially expanded configuration.

45. (Cancelled)

46. (Cancelled)

47. (Currently Amended) The elongated accessing device of claim [[45]] 44 wherein the arcuate tissue cutting member on the distal shaft portion is rotatable about the longitudinal axis of the elongated shaft.

48. (Currently Amended) A biopsy device, comprising:

a tubular member having a distal tip thereof;

an electrosurgical cutting tool ~~having~~ which has a distal end attached to a distal portion of the tubular member ~~[[near]]~~ proximal to the distal tip of the tubular member and which is configured to selectively bow out of and retract into an opening in the distal portion of the tubular member ~~and to retract into the opening~~; and

a tissue encapsulation device attached at least to the distal portion of the tubular member for encapsulating a tissue specimen in its entirety severed by the cutting tool as the biopsy device or a portion thereof is rotated and the cutting tool is bowed outwardly away from the tubular member.

49. (Currently Amended) A biopsy device, comprising:

a single use disposable tubular member formed of polymeric material having an electrosurgical cutting tool with a distal end of the electrosurgical cutting tool attached near a distal tip of the tubular member and at least a distal portion of the electrosurgical cutting tool which is configured to selectively bow away from an exterior portion of the tubular member and which is configured to receive RF energy from a source thereof so as to create a peripheral boundary about a tissue specimen so as to sever the tissue specimen from surrounding tissue; and

a single use disposable tissue encapsulation encapsulation device externally attached at least to the tubular member for encapsulating the severed tissue specimen.

50. (Previously presented) A method for obtaining a tissue specimen from a target site within a patient's body, comprising:

- a. providing a tissue obtaining instrument having an elongated shaft, a distal end, a longitudinal axis, and an axially disposed radially expandable electrosurgical cutting element proximally spaced from the distal end;
- b. advancing the tissue obtaining instrument into the patient's body until the distal end of the instrument is disposed in the target site from which the tissue specimen is to be taken;
- c. radially extending the electrosurgical cutting element away from the elongated shaft so that a portion thereof extends outwardly in an arcuate shape spaced away from the instrument;
- d. rotating the radially extended arcuate shaped electrosurgical cutting element about the longitudinal axis of the instrument while energizing the cutting element with RF energy to cut a tissue specimen from surrounding tissue at the target site by creating a peripheral boundary about the tissue specimen;
- e. encapsulating the cut tissue specimen in its entirety; and
- f. removing the encapsulated tissue specimen in its entirety and the tissue obtaining instrument from the patient.

51. (Previously presented) A biopsy instrument comprising an elongated shaft, a electrosurgical cutting element on a distal portion of the shaft configured to receive RF energy from a source thereof for severing a tissue specimen from a target site within a patient's body by creating a peripheral boundary about the tissue specimen and at least one means for encapsulating the entire severed tissue specimen, so that the specimen may be withdrawn from the patient's body in its entirety.

52. (Previously presented) An instrument for retrieving a tissue specimen from a target site in a patient's body, comprising:

an elongated shaft having a distal end configured for entry into a patient's body; and

a electrosurgical tissue cutting means on a distal portion of the elongated shaft configured to receive RF energy from a source thereof to sever a tissue specimen from the target site by creating a peripheral boundary about the tissue specimen; and

at least one means on a distal portion of the elongated shaft for encapsulating a tissue specimen, so that the specimen may be withdrawn as a single unit from the patient's body in its entirety.

53. (Previously presented) A biopsy device, comprising:

an elongated shaft having a distal tip;

an electrosurgical cutting means having a distal end attached to the elongated shaft near the distal tip of the elongated shaft which is configured to selectively bow out of the opening and to retract into the opening and which is configured to receive RF energy from a source thereof to sever a tissue specimen from the target site by creating a peripheral boundary about the tissue specimen; and

a tissue encapsulating means attached at least to the elongated shaft for encapsulating the tissue specimen in its entirety severed by the electrosurgical cutting means.

54. (Previously presented) A biopsy device, comprising:

a single use disposable elongated shaft having a electrosurgical cutting tool with a distal end of the electrosurgical cutting tool attached near a distal tip of the elongated shaft and at least a distal portion of the cutting tool configured to selectively bow away from an exterior portion of the elongated shaft and to receive RF energy from a source thereof to sever a tissue specimen from a target site by creating a peripheral boundary about the tissue specimen; and

a single use disposable tissue encapsulating means externally attached at least to the elongated shaft for encapsulating a tissue specimen in its entirety severed by the electrosurgical cutting tool.

55. (Previously presented) A method for obtaining a tissue specimen from a target site within a patient's body, comprising the steps of:

- a. providing a tissue obtaining instrument having an elongated shaft, a distal end, a longitudinal axis, and an axially disposed radially expandable electrosurgical cutting element proximally spaced from the distal end;
- b. advancing the tissue obtaining instrument into the patient's body until the distal end of the instrument is disposed in the target site from which the tissue specimen is to be taken;

- c. radially extending the electrosurgical cutting element away from the elongated shaft so that a portion thereof extends outwardly in an arcuate shape spaced away from the instrument;
- d. rotating the radially extended arcuate shaped electrosurgical cutting element about the longitudinal axis of the instrument while energized with RF energy to cut a tissue specimen from surrounding tissue at the target site by creating a peripheral boundary about the tissue specimen;
- e. encapsulating the cut tissue specimen; and
- f. removing the encapsulated cut tissue specimen in its entirety and the tissue obtaining instrument from the patient.

56. (Previously presented) The biopsy instrument of claim 17 wherein the at least one element for encapsulating the tissue specimen has a leading edge which advances over the cut tissue specimen.

57. (Previously presented) An instrument for separating a tissue specimen from a target site in a patient's body, comprising:

an elongated shaft having a longitudinal axis and a distal end configured for entry into a patient's body; and

a single RF powered electrosurgical tissue cutting element on a distal portion of the elongated shaft configured to bow radially outwardly away from the shaft and to sever a tissue specimen from the target site by rotating about the longitudinal axis of the shaft in the bowed configuration to create a peripheral boundary about the tissue specimen; and

an encapsulating assembly on a distal portion of the elongated shaft which is configured to encapsulate the entire tissue specimen severed from the tissue site by the bowed electrode so that the severed tissue specimen may be withdrawn from the patient's body in its entirety.

58. (Previously presented) The instrument as recited in Claim 57, wherein said encapsulating element comprises at least one axially disposed band which is actuatable between a radially retracted position and a radially extended position.

59. (Previously presented) The instrument as recited in Claim 57, wherein the elongated shaft is rotatable about the longitudinal axis in order to twist the bands of the encapsulating assembly to encapsulate the tissue specimen.

60. (Previously presented) The biopsy instrument of claim 17 wherein the at least one encapsulating element is configured to encapsulate the tissue specimen as the elongated shaft is rotated about the longitudinal axis.

61. (Previously presented) The instrument of claim 21 wherein the at least one encapsulating element is configured to encapsulate the tissue specimen as the elongated shaft is rotated about the longitudinal axis.

62. (Previously presented) The method of claim 30 wherein the isolated tissue specimen is encapsulated as the electrosurgical cutting element is rotated about the axis.

63. (Previously presented) The elongated device of claim 40 wherein the at least one element is configured to encapsulate the tissue specimen by rotation about the longitudinal axis.

64. (Previously presented) The method of claim 50 wherein the cut tissue specimen is encapsulated as the radially extended, arcuate shaped electrosurgical element is rotated about the longitudinal axis.

65. (Currently Amended) The biopsy instrument of claim 51 wherein the at least one means for encapsulating the severed tissue specimen is configured to encapsulate the severed ~~tissue~~ tissue specimen as the cutting element is rotated about the longitudinal axis of the shaft.

66. (Previously presented) The instrument of claim 52 wherein the at least one means for encapsulating a tissue specimen is configured to encapsulate the tissue specimen as the cutting element is rotating about the longitudinal axis of the elongated shaft.

67. (Previously presented) The biopsy device of claim 53 wherein the tissue encapsulating means is configured to encapsulate the tissue specimen in its entirety as the biopsy device or a portion thereof is rotated.

68. (Previously presented) The biopsy device of claim 54 wherein the encapsulating means is configured to encapsulate the tissue specimen as the biopsy device is rotated.

69. (Previously presented) The method of claim 55 wherein cut tissue specimen is encapsulated as the electrosurgical cutting element is rotated in the arcuate shape.